

## **CIVIL SERVICE COMMISSION MINUTES**

**June 20, 2001**

A Regular Meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Mary Gwen Brummitt  
Gordon Austin  
Barry I. Newman  
Roy Dixon  
Sigrid Pate

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer  
Ralph Shadwell, Senior Deputy County Counsel  
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES  
June 20, 2001

NO CLOSED SESSION

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego,  
California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
10, 11	7, 10		5, 6

COMMENTS Motion by Pate to approve all items not held for discussion;  
seconded by Dixon. Carried.

**REGULAR AGENDA**  
**County Administration Center, Room 358**

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and it is approved by the President of the Commission.

**MINUTES**

1. Approval of the Minutes of the regular meeting of June 6, 2001.

**Approved.**

**CONFIRMATION OF ASSIGNMENTS**

**Assignments**

2. Commissioner Brummitt: Michael McGlinn, Esq., on behalf of **Margaret Katungi**, Protective Services Worker II, appealing an Order of Demotion and Charges by the Health and Human Services Agency (HHSa).

**Confirmed.**

3. Commissioner Austin: Daniel Marshall, Esq., on behalf of **Martha Martinez-Johnson**, former Senior Clerk, HHSa, appealing an Order of Removal and Charges by the HHSa. (See No. 7 below.)

RECOMMENDATION: Assign Gordon Austin as Hearing Officer and conduct a pre-hearing conference to address and resolve allegations contained in appellant's appeal, i.e., Skelly officer bias and discrimination.

**Staff recommendation approved.**

**Reassignments**

4. Commissioner Newman: Richard Pinckard, Esq., on behalf of **Adam Krachman**, Deputy Sheriff, appealing an Order of Pay Step Reduction and Charges by the Sheriff's Department. Commissioner Austin originally assigned.

**Confirmed.**

## WITHDRAWALS

5. Commissioner Austin: Wendell Prude, S.E.I.U. Local 2028, on behalf of **Amparo Martinez**, former Records and ID Clerk II, Sheriff's Department, appealing an Order of Termination and Charges by the Sheriff's Department.

**Withdrawn.**

6. Commissioner Pate: **Richard Poole**, appealing the Department of Human Resources' decision to not place him on the employment list for the classification of Supervising Community Health Promotion Specialist.

**Withdrawn.**

## DISCRIMINATION

### Complaints

7. Daniel Marshall, Esq., on behalf of **Martha Martinez-Johnson**, former Senior Clerk, HHSA, alleging retaliatory discrimination by the HHSA. (See No. 3 above)

RECOMMENDATION: Continue pending resolution of No. 3 above.

**Staff recommendation approved. Continued.**

8. **Robert Berdell**, former Clinical Social Worker, Sheriff's Department, alleging disability discrimination by the Sheriff's Department.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

**Staff recommendation approved. Commissioner Pate assigned.**

9. S.E.I.U. Local 535 on behalf of **Genevieve McGlynn**, former Protective Services Worker I, HHSA, alleging age discrimination by the HHSA.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

**Staff recommendation approved. Commissioner Dixon assigned.**

## SELECTION PROCESS

### Complaints

10. S.E.I.U. Local 535, on behalf of **Karen E. Pittman**, Eligibility Technician, Health and Human Services Agency (HHSA), appealing the Department of Human Resources' decision to not place her on the employment list for the classification of Public Assistance Investigative Trainee due to her failure of the pre-employment psychological evaluation. (Continued from the June 6, 2001 Commission meeting.)

RECOMMENDATION: Deny Request.

Brenda Sammons, S.E.I.U. Local 535 on behalf of Ms. Pittman requested a continuance due to appellant's employment commitments. Larry Cook, Executive Officer confirmed this fact and explained to the Commission that the Department agreed to appellant's request. The Commission granted the continuance with the understanding that Ms. Pittman must be

available for the next meeting, July 18, 2001. No further continuances will be granted by the Commission.

**Motion by Austin to continue this matter to July 18, 2001.  
Seconded by Dixon. Carried.**

## **OTHER MATTERS**

### **Performance Appraisals**

#### **11. Discussion of matters relating to sealing Performance Appraisals.**

This matter is a follow-up discussion regarding sealing of performance appraisals, the subject of a February, 2001 Workshop.

After thoroughly examining Rule V and policy - the Commission discussed its options, including the possibility of amending policy language. Of great concern is the matter of sealing performance appraisals when found to be untimely. The Commissioners all agreed that timeliness is but one factor that is taken into consideration when a request to seal comes before it. The language in Administrative Manual 0080-04-7, paragraph 4 states ". . . The Commission **may** choose not to seal a record if it is issued beyond the 30 day period for good cause. . . ." (Emphasis added.)

Equally important to the Commission, is the adherence by all departments to the guidelines set forth for properly issued performance appraisals. Sealing of performance appraisals does not address the issue of why the appraisal was issued late. As hearing officers, the Commissioners have often heard disciplinary matters that are unsupported due to improperly issued or missing appraisals.

After lengthy discussion, it was clearly emphasized that each request for a sealing will be treated as a discreet "bundle of characteristics" and that a judgment be made on those characteristics.

Larry Cook, Executive Officer, offered clarification regarding the process used in offering staff recommendations to the Commission. Staff forwards employees' requests to seal appraisals to affected departments for response. 95% of the time employees' requests for sealing relate to untimeliness. Reasonable responses to improperly issued appraisals will usually result in a staff recommendation to deny request. Weak responses, or responses that concur with the request, will usually result in a staff recommendation to grant request. Mr. Cook emphasized that although staff makes recommendations, the Commission makes the decisions.

Ralph Shadwell, Sr. Deputy County Counsel advised the Commission that the substance of an appraisal can be part of the equation, but only after proof that the appraisal was improperly issued. He further offered the following factors as a sample of what could be considered: timeliness, form, DHR process, signatures, alleged bias, public interest, and precedence.

One of the Commission's main objectives is the balancing of equities as to who benefits and who is harmed by a sealing. Even if a department does not show good faith, there are potentially other factors regarding an appraisal that by sealing could cause a disservice to the department, the County and/or the public. Also, there is concern that a supervisor issuing an appraisal will not be penalized in any way for his/her negligence, and the Commission feels that a letter to the appointing authority and the CAO could be a proper avenue.

Commissioner Newman requested that staff be committed to examining all factors in a sealing, and not be bound by precedence. The Commission agreed to look at each request to seal with the power and freedom to examine all factors relating to a request to seal. At this time, the Commission is comfortable with leaving the language of Rule V and Administrative Manual 0080-04-7, paragraph 4 as is.

#### **Ratification of Medical Provider**

12. Ratification of **Christine Ann Baser, Ph.D.** as an additional name to the list of approved medical and psychological providers to be used to evaluate County applicants and employees at the request of the Department of Human Resources.

RECOMMENDATION: Ratify Provider.

**Item No 12 ratified.**

#### **Extension of Temporary Appointments**

13. Health and Human Services Agency

3 Residential Care Worker I's (Jacqueline Matthews, Claudia Nadeau, Dolores Cabrera)

14. Office of the District Attorney

1 Staff Development Coordinator (Christian Ching)

RECOMMENDATION: Ratify Item Nos. 13 & 14.

**Item Nos. 13 and 14 ratified.**

15. Public Input.

ADJOURNMENT: 3:30 p.m.

**NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE JULY 18, 2001.**